

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHILIP R. THRIFT
and
CHARLES T. HEMPHILL

MAILED

FEB 28 2001

Appeal No. 1998-1109
Application No. 08/419,229

PAT & TM OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before JERRY SMITH, RUGGIERO, and HECKER, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-19, all of the claims pending in the present application.

The claimed invention relates to a voice activated Hypermedia system using grammatical metadata and including a speech user agent, a network browsing module, and an information resource located on a computer network. The system includes

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embedded intelligence as a grammar which can be dynamically added to a speech recognizer. A further system feature provides for voice activated Hypermedia links and intelligent modules which process information from the information resources for allowing actions by the user.

Claim 1 is illustrative of the invention and reads as follows:

1. A voice activated Hypermedia system using grammatical metadata, said system comprising:
 - a. a speech user agent;
 - b. a network browsing module; and
 - c. an information resource located on a computer network wherein said speech user agent facilitates voice activation of said network browsing module to access said information resource.

The Examiner relies on the following prior art:

Stefanopoulos et al. (Stefanopoulos) 5,333,237 Jul. 26, 1994

Schmandt et al. (Schmandt), "Augmenting a Window System with Speech Input," 23 Computer Magazine, No. 8, 50-56 (IEEE, August 1990).

Claims 1-19 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Stefanopoulos in view of Schmandt.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Brief (paper no. 11) and Answer (paper no. 12) for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner, and the evidence of obviousness relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Brief along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-19. Accordingly, we affirm.

Appellants indicate at page 3 of the Brief that claims 1-4 stand or fall together as a group while claims 5-19 stand separately. We will consider the appealed claims separately only to the extent that separate arguments are of record in this appeal. Dependent claims 2-4 have not been argued separately in the Brief and, accordingly, will stand or fall with their base

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claim. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

As a general proposition in an appeal involving a rejection under 35 U.S.C. § 103, an Examiner is under a burden to make out a prima facie case of obviousness. If that burden is met, the burden of going forward then shifts to Appellants to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1051-52, 189 USPQ 143, 147 (CCPA 1976).

With respect to independent claim 1, the Examiner, as the basis for the obviousness rejection, proposes to modify the disclosed Hypermedia structured expert system of Stefanopoulos which, in the Examiner's view, discloses the claimed invention except for the speech user agent. To address this deficiency, the Examiner turns to Schmandt which discloses the use of speech input to navigate through a multiple window based computer system

display. In the Examiner's analysis (Answer, pages 4-5), the skilled artisan would have been motivated and found it obvious to incorporate the speech input and speech recognition techniques taught by Schmandt into the expert system of Stefanopoulos in order to reduce the need for less user friendly manual keyboard and mouse click inputs.¹

In making the obviousness rejection, the Examiner, therefore, has pointed out the teachings of Stefanopoulos and Schmandt, has reasonably indicated the perceived differences between this applied prior art and the claimed invention, and has provided reasons as to how and why this prior art would have been modified and/or combined to arrive at the claimed invention (Answer, pages 4-8). In our view, the Examiner's analysis is sufficiently reasonable that we find that the Examiner has at least satisfied the burden of presenting a prima facie case of obviousness. The burden is, therefore, upon Appellants to come forward with evidence or arguments which persuasively rebut the

¹The statement of the grounds of rejection at page 4 of the Answer refers back to the Office action mailed August 7, 1996, paper no. 4, which provides a detailed analysis of the Examiner's position.

Examiner's prima facie case of obviousness. Arguments which Appellants could have made but elected not to make in the Briefs have not been considered in this decision (note 37 CFR § 1.192).

In response, Appellants' initial argument (Brief, pages 6 and 7) attacks the Examiner's assertion that the applied references relate to a network environment. In particular, Appellants question the Examiner's citation of the passage at column 2, paragraph 3 of Schmandt as supporting disclosure of a network application. In Appellants' view, this passage only supports the proposition that the X-Windows system is widely used in workstations, not that the workstations are connected into a network.

After reviewing the Schmandt reference in light of Appellants' arguments, we agree that the particular passage cited by the Examiner is perhaps not the best portion of Schmandt's disclosure to support the Examiner's position. In our view, however, other portions of Schmandt's disclosure clearly support Schmandt's contemplation of a network application. For example, in the immediately succeeding paragraph after the cited passage, Schmandt refers to a client-server architecture which is illustrated in Schmandt's Figures 1 and 5 and which the skilled artisan would recognize as referring to a computer network

installation. Further, notwithstanding whether Schmandt actually uses the term "network," we agree with the Examiner's comment at page 4 of the Answer that one of ordinary skill would recognize that the multiple workstations discussed by Schmandt would be routinely interconnected to provide access to system software.

In addition, besides our comments directed to Schmandt's disclosure of a network environment, we also find disclosure in Stefanopoulos to support network architecture. The Abstract of Stefanopoulos sets forth the following:

Each active and passive electronic document includes active document transfer means that provide for transfer from the active document to another active document, a passive document, or a knowledge base linked thereto. The expert system, and the active and passive documents may also include knowledge base transfer means provided on the display that include selectable areas that provide access to additional linked expert systems [emphasis added].

Appellants' arguments (Brief, page 7) further emphasize the network environment aspects of their system by asserting that their system involves "accessing remote data across a network" or that their invention is concerned with "improving the ease of using a complex database such as the internet." In our opinion, however, such arguments are not commensurate with the scope of the claims. It is axiomatic that, in proceedings before the PTO,

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claims in an application are to be given their broadest reasonable interpretation consistent with the specification, and that claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art.

In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983). Moreover, limitations are not to be read into the claims from the specification. In re Van Geuns, 988 F.2d 1181, 1184, 26 USPQ2d 1057, 1059 (Fed. Cir. 1993), citing In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

Our review of the language of the appealed claims reveals only a recitation of a "computer network" with no recitation of any remote accessing of a database or any limitation as to database complexity or the internet. It is apparent to us that, whatever Appellants' intentions are with regard to claiming the specific accessing of a particular type of database, these intentions are clearly not realized in the language of the present appealed claims.

For all of the above reasons, since it is our opinion that the Examiner's prima facie case of obviousness has not been overcome by any convincing arguments from Appellants, the Examiner's 35 U.S.C. § 103 rejection of independent claim 1, as well as claims 2-4 which fall with claim 1, is sustained.

Turning to a consideration of the Examiner's obviousness rejection of claims 5-19, separately discussed by Appellants in the Brief, we sustain the 35 U.S.C. § 103 rejection of these claims as well. We note initially that independent claims 11 and 14 are similar to independent claim 1 discussed supra, but add limitations directed to the construction and extraction of grammar related features as part of the speech user agent. Dependent claims 5-10, 12, 13, and 15-19 primarily delineate further speech recognition grammar construction and extraction features.

The Examiner at pages 6-8 of the Answer, and at pages 3-7 of the Office action mailed August 7, 1996, paper no. 4, referenced in the Examiner's statement of the grounds of rejection, addresses the language of these claims and provides a line of reasoning for asserting the obviousness or inherent nature of each of the claimed features. In our view, the Examiner's reasoning is sufficient to shift the burden to Appellants to come forward with evidence and/or arguments to rebut the Examiner's position.

The extent of Appellants' arguments in response (Brief, pages 8-13), however, is to briefly summarize their interpretation of the applied Stefanopoulos and Schmandt

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references, essentially repeat the language of claims 5-19, and draw the general conclusion that the applied references do not suggest the claimed features. We do not dispute Appellants' contention that the applied references do not explicitly disclose several of the various features of claims 5-19; however, Appellants' minimal arguments do not address the Examiner's position of obviousness or inherency with respect to the features recited in these claims.

In conclusion, we have sustained the Examiner's 35 U.S.C. § 103 rejection of all of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-19 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

Jerry Smith)
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